

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

LIGHT OF THE WORLD GOSPEL  
MINISTRIES, INC.,

Plaintiff,

v.

VILLAGE OF WALTHILL, NEBRASKA,

Defendant.

Case No. 8:18-cv-312

**DEFENDANT'S ANSWER TO  
PLAINTIFF'S AMENDED COMPLAINT**

Defendant, by and through undersigned counsel, hereby answers Plaintiff's First Amended Complaint (Filing No. 13), on information and belief as follows:

**INTRODUCTION**

1. Introductory Paragraph 1 is a statement of the case to which no response is required.
2. Introductory Paragraph 2 is a statement of the case to which no response is required.
3. Introductory Paragraph 3 is a statement of the case to which no response is required.
4. Introductory Paragraph 4 is a statement of the case to which no response is required.

**THE PARTIES**

5. Defendant admits Paragraph 5.
6. Defendant admits Paragraph 6.
7. Defendant admits Paragraph 7.
8. Defendant denies Paragraph 8.

**JURISDICTION AND VENUE**

9. Paragraph 9 sets forth a legal conclusion and question of law to which no response is required.

10. Paragraph 10 sets forth legal conclusions and questions of law to which no response is required.

11. Paragraph 11 sets forth a legal conclusion and question of law to which no response is required.

**LOTW'S RELIGIONS [SIC] MISSION AND EFFORTS TO BUILD  
A NEW CHURCH BUILDING FOR ASSEMBLY AND WORSHIP**

12. Defendant lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 12, and therefore denies all allegations in Paragraph 12.

13. Defendant lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 13, and therefore denies all allegations in Paragraph 13.

14. Defendant lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 14, and therefore denies all allegations in Paragraph 14.

15. Defendant admits that pictures showing the exterior of LOTW's Current Building are attached to the Amended Complaint as Exhibit B. Defendant lacks knowledge or information sufficient to admit or deny the remaining allegations in Paragraph 15, and therefore denies the remaining allegations in Paragraph 15.

16. Defendant admits that a portion of a wall of the building adjacent to LOTW's current building as shown in the first picture of Exhibit B is leaning over the church's current building as set forth in pages 2-4 of Exhibit C. Defendant lacks knowledge or information sufficient to admit or deny the remaining allegations in Paragraph 16, and therefore denies the remaining allegations in Paragraph 16.

17. Defendant lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 17, and therefore denies all allegations in Paragraph 17.

18. Defendant lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 18, and therefore denies all allegations in Paragraph 18.

19. Defendant lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 19, and therefore denies all allegations in Paragraph 19.

20. Defendant lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 20, and therefore denies all allegations in Paragraph 20.

21. Defendant lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 21, and therefore denies all allegations in Paragraph 21.

22. Defendant lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 22, and therefore denies all allegations in Paragraph 22.

23. Defendant lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 23, and therefore denies all allegations in Paragraph 23.

24. Defendant lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 24, and therefore denies all allegations in Paragraph 24.

25. Defendant lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 25, and therefore denies all allegations in Paragraph 25.

26. Defendant lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 26, and therefore denies all allegations in Paragraph 26.

27. Defendant lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 27, and therefore denies all allegations in Paragraph 27.

**WALTHILL AND THE VILLAGE BOARD**

- 28. Defendant admits Paragraph 28.
- 29. Defendant admits Paragraph 29.
- 30. Defendant admits Paragraph 30.
- 31. Defendant admits Paragraph 31.
- 32. Defendant admits Paragraph 32.
- 33. Defendant admits Paragraph 33.
- 34. Defendant admits Paragraph 34.
- 35. Defendant admits Paragraph 35.
- 36. Defendant admits Paragraph 36.
- 37. Defendant admits Paragraph 37.

**LOTW ATTEMPTS TO BUILD IN 2014**

- 38. Defendant denies Paragraph 38.
- 39. Defendant admits Paragraph 39.
- 40. Defendant denies Paragraph 40.
- 41. Defendant denies Paragraph 41.
- 42. Defendant denies Paragraph 42.
- 43. Defendant admits Paragraph 43.
- 44. Defendant denies Paragraph 44.
- 45. Defendant admits Paragraph 45.
- 46. Defendant lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 46, and therefore denies all allegations in Paragraph 46.

47. Defendant lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 47, and therefore denies all allegations in Paragraph 47.

48. Defendant admits Paragraph 48.

49. Defendant admits Paragraph 49.

50. Defendant denies Paragraph 50.

51. Defendant admits Paragraph 51.

52. Defendant denies Paragraph 52.

53. Defendant admits Paragraph 53.

54. Defendant admits Paragraph 54.

55. Defendant admits Paragraph 55.

56. Defendant denies Paragraph 56.

57. Defendant denies Paragraph 57.

58. Defendant denies Paragraph 58.

59. Defendant admits Paragraph 59.

60. Defendant denies Paragraph 60.

61. Defendant denies Paragraph 61.

62. Defendant admits Paragraph 62.

63. Defendant admits Paragraph 63.

64. Defendant admits Paragraph 64.

**WALTHILL'S APRIL 2014 ZONING ORDINANCE AND COMPREHENSIVE PLAN**

65. Defendant admits Paragraph 65.

66. Defendant admits Paragraph 66.

67. Defendant admits Paragraph 67.

- 68. Defendant admits Paragraph 68.
- 69. Defendant denies Paragraph 69.
- 70. Defendant admits Paragraph 70.
- 71. Defendant admits Paragraph 71.
- 72. Defendant admits Paragraph 72.
- 73. Defendant denies Paragraph 73.
- 74. Defendant admits Paragraph 74.
- 75. Defendant admits Paragraph 75.
- 76. Defendant admits Paragraph 76.
- 77. Defendant denies Paragraph 77.
- 78. Defendant denies Paragraph 78.
- 79. Defendant admits Paragraph 79.
- 80. Defendant admits Paragraph 80.
- 81. Defendant denies Paragraph 81.
- 82. Defendant admits Paragraph 82.
- 83. Defendant denies Paragraph 83.
- 84. Defendant admits Paragraph 84.
- 85. Defendant admits Paragraph 85.
- 86. Defendant admits Paragraph 86.
- 87. Defendant denies Paragraph 87.
- 88. Defendant denies Paragraph 88.
- 89. Defendant denies Paragraph 89.
- 90. Defendant admits Paragraph 90.

- 91. Defendant admits Paragraph 91.
- 92. Defendant admits Paragraph 92.
- 93. Defendant admits Paragraph 93.
- 94. Defendant admits Paragraph 94.
- 95. Defendant admits Paragraph 95
- 96. Defendant denies Paragraph 96.
- 97. Defendant admits Paragraph 97.
- 98. Defendant admits Paragraph 98.
- 99. Defendant denies Paragraph 99.
- 100. Defendant admits Paragraph 100.
- 101. Defendant denies Paragraph 101.
- 102. Defendant denies Paragraph 102.
- 103. Defendant denies Paragraph 103.
- 104. Defendant denies Paragraph 104.
- 105. Defendant denies Paragraph 105.
- 106. Defendant admits Paragraph 106.
- 107. Defendant admits Paragraph 107.

**THE BOARD'S RETALIATORY REVOCATION OF LOTW'S BUILDING PERMIT**

108. Defendant admits in May 2014 LOTW applied for a demolition permit to destroy certain buildings on LOTW's Main Street Properties. Defendant denies the remaining allegations in Paragraph 108.

109. Defendant admits that the pictures of the exterior of these buildings are the LOTW buildings and are attached to the Amended Complaint as Exhibit D. Defendant lacks

knowledge or information sufficient to admit or deny the remaining allegations in Paragraph 109, and therefore denies the remaining allegations in Paragraph 109.

110. Defendant admits Paragraph 110.

111. Defendant denies Paragraph 111.

112. Defendant denies Paragraph 112.

113. Defendant admits Paragraph 113.

114. Defendant admits Paragraph 114.

115. Defendant admits the first sentence in Paragraph 115. Defendant denies the remaining allegations in Paragraph 115.

116. Defendant denies Paragraph 116.

117. Defendant admits the first sentence in Paragraph 117. Defendant denies the remaining allegations in Paragraph 117.

118. Defendant lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 118, and therefore denies all allegations in Paragraph 118.

119. Defendant admits on or about June 25, 2014, an attorney representing LOTW sent a letter to the Defendant Board Chairperson and Defendant Board raising concerns regarding the Defendant's refusal to grant the requested demolition permit and discussing several provisions of RLUIPA. Defendant admits the attorney's letter discussed federal law at length. Defendant admits the letter also addressed Nebraska law as set forth in the "the Constitution of the State of Nebraska" and the Defendant's ordinance. Defendant denies the remaining allegations of Paragraph 119.

120. Defendant denies Paragraph 120.

121. Defendant denies Paragraph 121.



122. Defendant denies Paragraph 122.

123. Defendant denies Paragraph 123.

124. Defendant admits Paragraph 124.

125. Defendant denies Paragraph 125.

126. Defendant admits Paragraph 126.

127. Defendant denies Paragraph 127.

128. Defendant admits Paragraph 128

129. Defendant denies Paragraph 129.

130. Defendant denies Paragraph 130.

131. Defendant admits Paragraph 131.

132. Defendant denies Paragraph 132.

133. Defendant admits the first sentence in Paragraph 133. Defendant denies the remaining allegations in Paragraph 133.

134. Defendant admits Paragraph 134.

135. Defendant admits Paragraph 135.

136. Defendant denies Paragraph 136.

137. Defendant admits Paragraph 137.

138. Defendant lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 138, and therefore denies all allegations in Paragraph 138.

139. Defendant denies Paragraph 139.

140. Defendant admits Paragraph 140.

141. Defendant denies Paragraph 141.

142. Defendant denies Paragraph 142.

143. Defendant denies Paragraph 143.

144. Defendant admits the first sentence in Paragraph 144. Defendant denies the remaining allegations in Paragraph 144.

145. Defendant denies Paragraph 145.

146. Defendant admits Paragraph 146.

147. Defendant denies Paragraph 147.

148. Defendant admits Paragraph 148.

149. Defendant denies Paragraph 149.

150. Defendant denies Paragraph 150.

151. Defendant denies Paragraph 151.

152. Defendant denies Paragraph 152.

153. Defendant denies Paragraph 153.

154. Defendant admits at the next Defendant Board meeting on August 12, 2014, the Defendant Board reviewed and approved the minutes of its previous meeting held on July 8, 2014. Defendant further admits no member of the Defendant Board corrected, added to, or amended the July 8, 2014, minutes before the Defendant Board's approval. Defendant denies the remaining allegations in Paragraph 154.

155. Defendant admits the second sentence in Paragraph 155. Defendant denies the remaining allegations of Paragraph 155.

156. Defendant admits Paragraph 156.

157. Defendant denies Paragraph 157.

158. Defendant admits Paragraph 158.

159. Defendant admits Paragraph 159.

160. Defendant admits Paragraph 160.

161. Defendant admits Paragraph 161.

162. Defendant admits Paragraph 162.

163. Defendant admits on February 5, 2015, Defendant Board Chairperson Ross' resignation from the Defendant Board was approved by the Defendant Board. The Defendant denies the remaining allegations of Paragraph 163.

164. Defendant admits Paragraph 164.

165. Defendant admits the first sentence in Paragraph 165. Defendant denies the remaining allegations in Paragraph 165.

166. Defendant lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 166, and therefore denies all allegation in Paragraph 166.

167. Defendant admits Paragraph 167.

168. Defendant lacks knowledge of information sufficient to admit or deny the allegations in Paragraph 168, and therefore denies all allegations in Paragraph 168.

169. Defendant denies Paragraph 169.

170. Defendant denies Paragraph 170.

**VILLAGE UNEQUAL TREATMENT OF SECULAR ASSEMBLY USES**

171. Defendant admits Paragraph 171.

172. Defendant admits Paragraph 172.

173. Defendant admits Paragraph 173.

174. Defendant admits Paragraph 174.

175. Defendant admits Paragraph 175.

176. Defendant admits Paragraph 176.

- 177. Defendant admits Paragraph 177.
- 178. Defendant admits Paragraph 178.
- 179. Defendant admits Paragraph 179.
- 180. Defendant admits Paragraph 180.
- 181. Defendant admits Paragraph 181.
- 182. Defendant admits Paragraph 182.
- 183. Defendant denies Paragraph 183.
- 184. Defendant denies Paragraph 184.
- 185. Defendant admits Paragraph 185.
- 186. Defendant admits Paragraph 186.
- 187. Defendant admits Paragraph 187.
- 188. Defendant admits Paragraph 188.
- 189. Defendant admits Paragraph 189.
- 190. Defendant denies Paragraph 190.
- 191. Defendant denies Paragraph 191.
- 192. Defendant denies Paragraph 192.
- 193. Defendant denies Paragraph 193.
- 194. Defendant denies Paragraph 194.
- 195. Defendant denies Paragraph 195.
- 196. Defendant admits Paragraph 196.
- 197. Defendant admits Paragraph 197.
- 198. Defendant denies Paragraph 198.
- 199. Defendant admits Paragraph 199.

200. Defendant denies Paragraph 200.

201. Defendant admits the first sentence in Paragraph 201. Defendant denies the remaining allegations of Paragraph 201.

202. Defendant admits Paragraph 202.

203. Defendant admits Paragraph 203.

204. Defendant admits Paragraph 204.

205. Defendant denies Paragraph 205.

206. Defendant admits Paragraph 206.

207. Defendant admits Paragraph 207.

208. Defendant admits Paragraph 208.

209. Defendant admits Paragraph 209.

210. Defendant admits Paragraph 210.

211. Defendant admits Paragraph 211.

212. Defendant denies Paragraph 212.

213. Defendant denies Paragraph 213.

214. Defendant denies Paragraph 214.

215. Defendant denies Paragraph 215.

216. Defendant denies Paragraph 216.

217. Defendant denies Paragraph 217.

218. Defendant denies Paragraph 218.

219. Defendant denies Paragraph 219.

220. Defendant denies Paragraph 220.

221. Defendant denies Paragraph 221.

222. Defendant denies Paragraph 222.

223. Defendant denies Paragraph 223.

**COUNT I**

224. Defendant admits and denies the allegations realleged in Paragraph 224 as indicated in Paragraphs 1 – 223 above.

225. Defendant denies Paragraph 225.

226. Defendant denies Paragraph 226.

227. Defendant denies Paragraph 227.

228. Defendant denies Paragraph 228.

229. Defendant denies Paragraph 229.

230. Defendant denies Paragraph 230.

231. Defendant denies Paragraph 231.

232. Defendant denies Paragraph 232.

233. Defendant denies Paragraph 233.

234. Defendant denies Paragraph 234.

235. Defendant denies Paragraph 235.

236. Defendant denies Paragraph 236.

237. Defendant denies Paragraph 237.

238. Defendant denies Paragraph 238.

239. Defendant denies Paragraph 239.

240. Defendant denies Paragraph 240.

241. Defendant denies Paragraph 241.

242. Defendant denies Paragraph 242.

**COUNT II**

243. Defendant admits and denies the allegations realleged in Paragraph 243 as indicated in Paragraphs 1 – 242 above.

244. Defendant denies Paragraph 244.

245. Defendant denies Paragraph 245.

246. Defendant denies Paragraph 246.

247. Defendant denies Paragraph 247.

248. Defendant denies Paragraph 248.

249. Defendant denies Paragraph 249.

250. Defendant denies Paragraph 250.

251. Defendant denies Paragraph 251.

252. Defendant denies Paragraph 252.

253. Defendant denies Paragraph 253.

254. Defendant denies Paragraph 254.

255. Defendant denies Paragraph 255.

256. Defendant denies Paragraph 256.

257. Defendant denies Paragraph 257.

258. Defendant denies Paragraph 258.

259. Defendant denies Paragraph 259.

260. Defendant denies Paragraph 260.

261. Defendant denies Paragraph 261.

262. Defendant denies Paragraph 262.

263. Defendant denies Paragraph 263.

264. Defendant denies Paragraph 264.

265. Defendant denies Paragraph 265.

266. Defendant denies Paragraph 266.

**COUNT III**

267. Defendant admits and denies the allegations realleged in Paragraph 267 as indicated in Paragraphs 1 – 266 above.

268. Defendant denies Paragraph 268.

269. Defendant denies Paragraph 269.

270. Defendant denies Paragraph 270.

271. Defendant denies Paragraph 271.

272. Defendant denies Paragraph 272.

273. Defendant denies Paragraph 273.

274. Defendant denies Paragraph 274.

275. Defendant denies Paragraph 275.

276. Defendant denies Paragraph 276.

277. Defendant denies Paragraph 277.

**COUNT IV**

278. Defendant admits and denies the allegations realleged in Paragraph 278 as indicated in Paragraphs 1 – 277 above.

279. Defendant denies Paragraph 279.

280. Defendant denies Paragraph 280.

281. Defendant denies Paragraph 281.

282. Defendant denies Paragraph 282.



283. Defendant denies Paragraph 283.

284. Defendant denies Paragraph 284.

285. Defendant denies Paragraph 285.

286. Defendant denies Paragraph 286.

287. Defendant denies Paragraph 287.

288. Defendant denies Paragraph 288.

289. Defendant denies Paragraph 289.

#### **COUNT V**

290. Defendant admits and denies the allegations realleged in Paragraph 290 as indicated in Paragraphs 1 – 289 above.

291. Defendant denies Paragraph 291.

292. Defendant denies Paragraph 292.

293. Defendant denies Paragraph 293.

294. Defendant denies Paragraph 294.

295. Defendant denies Paragraph 295.

#### **COUNT VI**

296. Defendant admits and denies the allegations realleged in Paragraph 296 as indicated in Paragraphs 1 – 295 above.

297. Defendant denies Paragraph 297.

298. Defendant denies Paragraph 298.

299. Defendant denies Paragraph 299.

300. Defendant denies Paragraph 300.

301. Defendant denies Paragraph 301.

302. Defendant denies Paragraph 302.

303. Defendant denies Paragraph 303.

**COUNT VII**

304. Defendant admits and denies the allegations realleged in Paragraph 304 as indicated in Paragraphs 1 – 303 above.

305. Defendant denies Paragraph 305.

306. Defendant denies Paragraph 306.

307. Defendant denies Paragraph 307.

308. Defendant denies Paragraph 308.

309. Defendant denies Paragraph 309.

310. Defendant denies Paragraph 310.

311. Defendant denies Paragraph 311.

312. Defendant denies Paragraph 312.

**COUNT VIII**

313. Defendant admits and denies the allegations realleged in Paragraph 313 as indicated in Paragraphs 1 – 312 above.

314. Defendant admits Paragraph 314.

315. Defendant admits Paragraph 315.

316. Defendant admits Paragraph 316.

317. Defendant admits Paragraph 317.

318. Defendant admits Paragraph 318.

319. Defendant admits Paragraph 319.

320. Defendant admits Paragraph 320.

321. Defendant denies Paragraph 321.

322. Defendant admits Paragraph 322.

323. Defendant denies Paragraph 323.

324. Defendant denies Paragraph 324.

325. Defendant denies Paragraph 325.

326. Defendant denies Paragraph 326.

327. Defendant denies Paragraph 327.

328. Defendant denies Paragraph 328.

329. Defendant denies Paragraph 329.

330. Defendant denies Paragraph 330.

331. Defendant denies Paragraph 331.

### **COUNT IX**

332. Defendant admits and denies the allegations realleged in Paragraph 332 as indicated in Paragraphs 1 – 331 above.

333. Defendant admits Paragraph 333.

334. Defendant denies Paragraph 334.

335. Defendant denies Paragraph 335.

336. Defendant denies Paragraph 336.

337. Defendant denies Paragraph 337.

338. Defendant denies Paragraph 338.

339. Defendant denies Paragraph 339.

340. Defendant denies Paragraph 340.

341. Defendant denies Paragraph 341.

342. Defendant denies Paragraph 342.

343. Defendant denies Paragraph 343.

344. Defendant denies Paragraph 344.

**PRAYER FOR RELIEF**

345. Defendant denies Plaintiff is entitled to the relief sought.

**AFFIRMATIVE DEFENSES**

346. Plaintiff has failed to state a claim upon which relief can be granted.

347. Any loss suffered by Plaintiff is the result of its own conduct or that of third parties not within the control of the Defendant.

348. The Court lacks subject matter jurisdiction as to some or all of the claims made.

349. Plaintiff's claims are not ripe for adjudication in whole or in part.

350. Plaintiff's claims are moot and no relief may be granted.

351. Plaintiff has failed to mitigate any damages it may claim.

352. Plaintiff's claims are barred in whole or in part by the doctrine of waiver.

353. Plaintiff's claims are barred by the Plaintiff's failure to exhaust administrative remedies.

354. Plaintiff's claims are barred by applicable statute of limitations, laches, and/or equitable estoppel.

355. Because Plaintiff's federal claims should be dismissed, this Court should decline to exercise supplemental jurisdiction under 28 U.S.C. § 1367(c)(3).

356. Compliance with Defendant permitting procedures does not, as a matter of law, constitute a "substantial burden" in the context of a RLUIPA claim.

357. Alternatively, if RLUIPA applies, the options afforded to Plaintiff by the Defendant did not impose a substantial burden upon Plaintiff, Defendant has a compelling interest in protecting the governmental interest in public health and safety, and the Defendant's actions were the least restrictive means of furthering that compelling governmental interest.

358. Plaintiff's claims also may be barred by any and all of the affirmative defenses contemplated by Rule 8(c) of the Federal Rules of Civil Procedure. The extent to which Plaintiff's claims may be barred by one or more of said affirmative defenses, not specifically set out above, cannot be determined until there has been further discovery. Defendant therefore alleges and incorporates all such affirmative defenses set forth in Fed. R. Civ. P. 8(c).

359. All actions taken by Defendant or those acting on behalf of the Defendant were authorized by the laws of the United States, the State of Nebraska, and the Defendant.

WHEREFORE, Defendant prays that the Court dismisses Plaintiff's Amended Complaint and awards the Defendant its costs and disbursements incurred herein and such other and further relief as the Court deems just and equitable.

DATED this 10th day of September, 2018.

VILLAGE OF WALTHILL, NEBRASKA,  
Defendant

By: s/ Jerry L. Pigsley  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the 10th day of September, 2018, a true and correct copy of the above and foregoing document was electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the party's counsel of record.

*s/ Jerry L. Pigsley*

One of Said Attorneys